

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0493.01 Debbie Haskins x2045

HOUSE BILL 14-1042

HOUSE SPONSORSHIP

Saine, McCann

SENATE SPONSORSHIP

Tochtrop,

House Committees

Public Health Care & Human Services
Finance
Appropriations

Senate Committees

Judiciary
Finance

A BILL FOR AN ACT

101 **CONCERNING ACCESS BY BIRTH PARENTS TO RECORDS RELATING TO**
102 **THE RELINQUISHMENT OF PARENTAL RIGHTS, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

This bill requires that a custodian of records relating to the relinquishment of a child provide the following records to the child's birth parent at the time of relinquishment or at the time the document is created:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 7, 2014

HOUSE
Amended 2nd Reading
March 5, 2014

- ! The original birth certificate;
- ! The petition to relinquish;
- ! The final order of relinquishment or other relinquishment documents;
- ! The affidavit of counseling;
- ! The temporary waiver of custody; and
- ! The expedited relinquishment documents, if applicable.

If relinquishment records were not provided to a birth parent at the time of the relinquishment of the child or at the time the document was created and the subsequent termination of the parent-child legal relationship was not the result of a dependency and neglect action, then upon written request of the birth parent and proof of identification, the custodian of the records shall provide access to and copies of such records to the birth parent, including all documents that the birth parent signed or on which the birth parent is named.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-103, **add** (35.5)
 3 as follows:

4 **19-1-103. Definitions.** As used in this title or in the specified
 5 portion of this title, unless the context otherwise requires:

6 (35.5) "CUSTODIAN OF RECORDS", AS USED IN SECTION 19-5-109,
 7 MEANS AN ENTITY THAT HAS CUSTODY OF RECORDS RELATING TO THE
 8 RELINQUISHMENT OF A CHILD, INCLUDING A COURT, STATE AGENCY, █
 9 LICENSED CHILD PLACEMENT AGENCY, MATERNITY HOME, OR THE LEGAL
 10 AGENT OR REPRESENTATIVE OF ANY SUCH ___ ENTITY.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 19-5-109 as
 12 follows:

13 **19-5-109. Birth parent access to records related to**
 14 **relinquishment of parental rights.** (1) (a) IN THOSE CASES IN WHICH A
 15 PARENT CONSENTS TO THE RELINQUISHMENT OF HIS OR HER CHILD AND
 16 THE SUBSEQUENT TERMINATION OF THE PARENT-CHILD LEGAL
 17 RELATIONSHIP IS NOT THE RESULT OF A DEPENDENCY AND NEGLECT

1 ACTION, THE CUSTODIAN OF RECORDS SHALL PROVIDE TO THE
2 RELINQUISHING BIRTH PARENT TO WHOM THE DOCUMENT PERTAINS A COPY
3 OF THE RELINQUISHMENT RECORDS, IN THE POSSESSION OF THE CUSTODIAN
4 OF RECORDS, THAT ARE SIGNED BY THE RELINQUISHING BIRTH PARENT OR
5 BY A PARENT, GUARDIAN, CUSTODIAN, OR LEGAL REPRESENTATIVE ON
6 BEHALF OF THE RELINQUISHING BIRTH PARENT AND ANY OF THE
7 FOLLOWING RECORDS LISTED IN THIS PARAGRAPH (a) IN WHICH THE
8 RELINQUISHING BIRTH PARENT IS NAMED, INCLUDING:

9 (I) THE ORIGINAL BIRTH CERTIFICATE OF THE CHILD WHO IS BEING
10 RELINQUISHED;

11 (II) THE PETITION TO RELINQUISH;

12 (III) THE FINAL ORDER OF RELINQUISHMENT;

13 (IV) THE AFFIDAVIT OF COUNSELING, EXCLUDING ANY
14 ATTACHMENTS AND EXCLUDING ANY NOTES OR PRERELINQUISHMENT
15 COUNSELING DOCUMENTS;

16 (V) THE TEMPORARY WAIVER OF CUSTODY;

17 (VI) EXPEDITED RELINQUISHMENT DOCUMENTS, IF APPLICABLE;

18 (VII) A RELINQUISHMENT INTERROGATORY FROM A BIRTH PARENT;

19 (VIII) THE ORDER FOR PUBLICATION OF RELINQUISHMENT;

20 (IX) THE NOTICE TO TERMINATE THE PARENT-CHILD LEGAL
21 RELATIONSHIP; AND

22 (X) THE MEDICAL RECORDS OF A BIRTH MOTHER RELATED TO THE
23 PREGNANCY AND BIRTH, WHICH RECORDS MAY ONLY BE RELEASED BY THE
24 HEALTH CARE PROVIDER, HOSPITAL, OR MATERNITY HOME THAT CREATED
25 THE RECORD.

26 (b) THE CUSTODIAN OF RECORDS SHALL PROVIDE THE RECORDS
27 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) TO THE

1 RELINQUISHING BIRTH PARENT AT THE TIME OF RELINQUISHMENT OF THE
2 CHILD OR AT THE TIME THE DOCUMENT IS CREATED.

3 (2) IF THE RECORDS DESCRIBED IN SUBSECTION (1) OF THIS
4 SECTION WERE NOT PROVIDED TO A BIRTH PARENT AT THE TIME OF THE
5 RELINQUISHMENT OF THE CHILD OR AT THE TIME THE DOCUMENT WAS
6 CREATED AND IF THE SUBSEQUENT TERMINATION OF THE PARENT-CHILD
7 LEGAL RELATIONSHIP WAS NOT THE RESULT OF A DEPENDENCY OR
8 NEGLECT ACTION, THEN UPON WRITTEN REQUEST AND PROOF OF
9 IDENTIFICATION OF THE BIRTH PARENT, THE CUSTODIAN OF RECORDS
10 SHALL PROVIDE ACCESS TO AND COPIES OF THE RECORDS DESCRIBED IN
11 SUBSECTION (1) OF THIS SECTION TO THE BIRTH PARENT. NOTHING IN THIS
12 SECTION PREVENTS THE RELEASE OF THE RECORDS DESCRIBED IN
13 SUBSECTION (1) OF THIS SECTION TO A BIRTH PARENT WHO WAS A MINOR
14 AT THE TIME OF THE RELINQUISHMENT OF A CHILD IN CIRCUMSTANCES
15 WHERE THE RECORD WAS SIGNED BY A PARENT, GUARDIAN, LEGAL
16 CUSTODIAN, OR LEGAL REPRESENTATIVE ON BEHALF OF THE
17 RELINQUISHING BIRTH PARENT.

18 (3) A LICENSED CHILD PLACEMENT AGENCY IS NOT LIABLE TO ANY
19 PERSON FOR THE FAILURE OF A BIRTH PARENT TO REQUEST COPIES OF THE
20 RECORDS DESCRIBED IN SUBSECTION (1) OF THIS SECTION PURSUANT TO
21 THE PROVISIONS OF SUBSECTION (1) OR SUBSECTION (2) OF THIS SECTION.
22 A LICENSED CHILD PLACEMENT AGENCY OR SUCCEEDING CUSTODIAN OF
23 RECORDS IS NOT LIABLE TO ANY PERSON FOR FAILURE TO PRODUCE A COPY
24 OF A RECORD THAT DID NOT EXIST PURSUANT TO THE PROVISIONS OF THE
25 COLORADO REVISED STATUTES OR RULES AT THE TIME OF THE
26 RELINQUISHMENT OF THE CHILD.

27 **SECTION 3. Appropriation.** In addition to any other

1 appropriation, there is hereby appropriated, out of any moneys in the vital
2 statistics records cash fund created in section 25-2-121 (2) (b) (I),
3 Colorado Revised Statutes, not otherwise appropriated, to the department
4 of public health and environment, for the fiscal year beginning July 1,
5 2014, the sum of \$14,423 and 0.3 FTE, or so much thereof as may be
6 necessary, for allocation to health statistics and vital records for personal
7 services related to the implementation of this act.

8 **SECTION 4. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2014 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.